been taken up and the plaintiff was in the elevator ready to descend when the defendant's employee jerked the rope, thereby precipitating the elevator to the bottom of the well. *Miller* v. *Brewster*, 32 App. Div. 559, 53 N. Y. Supp. 1. And the liability is the same where the defect was in the beams on which the elevator rested if the operators knew or had reasonable opportunity to know of such defects. *Oberfelder* v. *Doran*, 26 Neb. 118, 18 Am. St. Rep. 771. Also, where the door of the shaft was open and the bar pulled back it was held sufficient evidence to show lack of reasonable care and caution. *Peoples Bank* v. *Morgolofski*, 75 Md. 432, 32 Am. St. Rep. 403.

But if there is a passenger elevator which the plaintiff could have used instead of the freight elevator, he is not regarded as an invitee when using the latter. *Amerine* v. *Porteous*, 105 Mich. 347, 63 N. W. 300. Especially is this true where the person injured knew the passenger elevator was running but rather than wait for it went to the freight elevator and operated it himself. *Hansen* v. *State Bank Bldg. Co.*, 100 Iowa 672, 69 N. W. 1020. And where one stood partly on the elevator and partly on the floor and, for some unaccountable reason the elevator started, no recovery was allowed for injury resulting therefrom. *Green* v. *Urban Constructing and Heating Co.*, 106 App. Div. 460, 94 N. Y. Supp. 743. The same was held where the plaintiff was placing goods on an elevator and it started unexpectedly. *Cleary* v. *Brooklyn F. & P. Co.*, 79 App. Div. 35, 79 N. Y. Supp. 1041. Where the person injured intentionally entered the door of a freight elevator used by employees only, without invitation or permission and was injured by falling down the shaft, no recovery was allowed. *Bennett* v. *Butterfield*, 112 Mich. 96, 70 N. W. 410. And this is true even though the plaintiff himself left the elevator at the door of the shaft and someone else moved it. *Follins* v. *Dill*, 221 Mass. 93, 108 N. E. 929.

CARRIERS—PASSENGERS—DUTY TO ASSIST IN ALIGHTING FROM CONVEYANCE.—The plaintiff, unable to open a door leading from the main compartment of the street car to the platform, advised the motorman of her difficulty. The motorman directed her to push it, and later, to push it harder. Following his instructions, she finally forced the door open, and was carried by the force of her push and the sudden opening of the door out across the platform and into the highway, causing her injuries. *Held*, it is the duty of the carrier's servants to assist a passenger where there is some unusual danger or difficulty arising from the means afforded for alighting. *Adams* v. *Portland Ry. Light & Power Co.* (Ore.), 171 Pac. 219.

A carrier owes to every passenger the highest degree of practical care, without regard to age, sex or bodily infirmities, until the passenger has been safely discharged at his destination. Whether or not this care has been exercised is a matter to be determined by the jury from all the facts of the case. *International Ry. Co.* v. *Williams* (Tex. Civ. App.), 183 S. W. 1185; *Texas & P. Ry. Co.* v. *Miller*, 79 Tex. 78, 15 S. W. 264, 11 L. R. A. 395, 23 Am. St. Rep. 308. Where the circumstances are such as to suggest to the carrier's employee the necessity of assisting a passenger to alight, it becomes the duty of the employee to

render such assistance. *Southern Ry. Co.* v. *Reeves*, 116 Ga. 743, 42 S. E. 1015. And where a passenger carrying a valise and a bundle requested assistance and the conductor failed to render it, the carrier was held liable for injuries due to such failure. *Missouri K. & T. Ry. Co.* v. *Buchanan*, 31 Tex. Civ. App. 209, 72 S. W. 96.

It is generally recognized that the carrier is under obligation to furnish aid to the aged, very young, infirm or helpless passenger, especially where the carrier's employees were notified of the passenger's condition. *Lange* v. *Chicago & A. Ry. Co.*, 175 Mo. App. 34, 157 S. W. 850. It has been held, however, that such infirmity must be mental or physical so as to render the passenger unable to take care of himself. *Central Ry. Co.* v. *Carlisle*, 2 Ala. App. 514, 56 South. 737.

One court has declared the carrier owes no duty whatever to assist its passengers to alight. *New Orleans, J. & G. N. R. Co.* v. *Statham*, 42 Miss. 607. Also the failure of a conductor to conform to a rule requiring him to assist lady passengers off its cars will not impose any liability on the carrier unless the rule was known to and relied on by the passenger. *Central R. Co.* v. *Carlisle, supra.* But if it is customary for the carrier's employees to render assistance to alighting passengers and the passengers know of this custom and act accordingly, then a failure to render such assistance will make the carrier responsible. *Younglove* v. *Pullman Co.*, 207 Fed. 797; *Cincinnati, etc., Ry. Co.* v. *Bell*, 25 Ky. 10, 74 S. W. 700.

If, however, a carrier's employees volunteer to render assistance, even where it is not necessary, it will be liable for any negligence connected with the rendering of such assistance within the scope of the servant's employment. *Hanlon* v. *Central R. Co.*, 187 N. Y. 73, 79 N. E. 846, 10 L. R. A. (N. S.) 411. And although an employee is not required to lend assistance to alighting passengers in every case, yet where a brakeman attempted to assist a passenger in alighting and through his negligence the passenger suffered serious injuries the railroad was held liable. *Ray* v. *Chicago & N. W. Ry. Co.*, 163 Iowa 430, 144 N. W. 1018; *Louisville & N. R. Co.* v. *Lee*, 140 Ky. 91, 130 S. W. 813.

Some courts hold that while the carrier ordinarily does not owe any duty of assistance, yet it must provide suitable and safe conveniences at a proper place for the alighting of passengers and must bring its vehicle to a stop at that place. *Raben* v. *Central Iowa R. Co.*, 74 Iowa 732, 34 N. W. 621; *Southern Ry. Co.* v. *Hobbs*, 118 Ga. 227, 45 S. E. 23, 63 L. R. A. 68. And where the carrier stops at an unsafe and unusual place it owes the duty of assistance to passengers alighting there. *Memphis R. Co.* v. *Whitfield*, 44 Miss 466, 7 Am. Rep. 699; *McGovern* v. *Interurban R. Co.*, 136 Iowa 13, 111 N. W. 412, 13 L. R. A. (N. S.) 476; *Cartwright* v. *Chicago R. Co.*, 52 Mich. 606, 18 N. W. 380, 50 Am. Rep. 274. Thus, a carrier was held liable for a failure to render assistance where a passenger was forced to alight during a severe snow storm at an improper landing place where no platform had been provided. *Alexandria & F. R. Co.* v. *Herndon*, 87 Va. 193, 12 S. E. 289.

EVIDENCE—DYING DECLARATIONS—STATEMENTS OF OPINION.—The plaintiff-in-error was being tried for manslaughter. The state sought to in-